

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-98
SENATE BILL 1226

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE
REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

PART I. GENERAL TECHNICAL CHANGES.

Section 1(a). Article 8D of Chapter 105 of the General Statutes is repealed.

Section 1(b). G.S. 105-130.11(a)(2) reads as rewritten:

"(2) ~~Building and loan associations and savings and loan associations~~ subject to tax under Article 8D of this Chapter; cooperative Cooperative banks without capital stock organized and operated for mutual purposes and without profit; and electric and telephone membership corporations organized under Chapter 117 of the General Statutes."

Section 1(c). G.S. 105-130.5(c) is amended by adding a new subdivision to read:

"(5) A savings and loan association may deduct interest earned on deposits at the Federal Home Loan Bank of Atlanta, or its successor, to the extent included in federal taxable income."

Section 1(d). G.S. 105-228.24A is recodified as G.S. 105-130.43.

Section 1(e). G.S. 105-130.43, as recodified by this section, reads as rewritten:

"§ 105-130.43. ~~Income tax credit for~~ Credit for savings and loan supervisory fees.

Every savings and loan association is allowed a credit against the ~~income tax imposed on it under Article 4 of this Chapter~~ tax imposed by this Part for a taxable year equal to the amount of supervisory fees, paid by the association during the taxable year, that were assessed by the Administrator of the Savings Institutions Division of the Department of Commerce for the State fiscal year beginning ~~on or during~~ that taxable year. This credit may not exceed the amount of ~~income tax payable by the association imposed by this Part~~ for the taxable year for which the credit is claimed, year, reduced by the sum of all ~~income tax~~ credits allowed against the tax, except tax payments made by or on behalf of the association. ~~The supervisory fees shall not be an allowable deduction in determining taxable income for any association claiming the credit allowed under this section.~~ taxpayer. A taxpayer that claims the credit allowed under this section may not deduct the supervisory fees in determining taxable income."

Section 1(f). G.S. 105-83(d) reads as rewritten:

"(d) This section does not apply to corporations liable for the tax levied under G.S. ~~105-102.3~~, 105-102.3 or to savings and loan associations."

Section 1(g). G.S. 105-88(b) reads as rewritten:

"(b) ~~Nothing in this section shall be construed to~~ This section does not apply to banks, industrial banks, trust companies, ~~building savings~~ and loan associations, or cooperative credit unions, ~~nor shall it apply to~~ the business of negotiating loans on real estate as described in G.S. 105-41, ~~nor to~~ pawnbrokers lending or advancing money on specific articles of personal property, ~~nor to or~~ insurance premium finance companies licensed under Article 35 of Chapter 58 of the General Statutes. ~~It shall apply~~ This section applies to those persons or concerns operating what are commonly known as loan companies or finance companies and whose business is as hereinbefore described, and those persons, firms, or corporations pursuing the business of lending money and taking as security for the payment of ~~such the~~ loan and interest an assignment of wages or an assignment of wages with power of attorney to collect ~~same, the amount due~~, or other order or chattel mortgage or bill of sale upon household or kitchen furniture. No real estate mortgage broker ~~shall be~~ is required to obtain a privilege license under this section merely because ~~he advances his~~ the broker advances the broker's own funds and takes a security interest in real estate to secure ~~such the~~ advances and when, at the time of ~~such advance of his own funds, he the~~ advance, the broker has already made arrangements with others for the sale or discount of the obligation at a later date and does so sell or discount ~~such the~~ obligation within the period specified in ~~said the~~ arrangement or extensions thereof; or when, at the time of the advance ~~of his own funds, he the broker~~ intends to sell the obligation to others at a later date and does, within 12 months from date of initial advance, make arrangements with others for the sale of said the obligation and does sell the obligation within the period specified in said the arrangement or extensions thereof; or because he advances his the broker advances the broker's own funds in temporary financing directly involved in the production of permanent-type loans for sale to others; and no real estate mortgage broker whose mortgage lending operations are essentially as described above shall be is required to obtain a privilege license under this section."

Section 1(h). G.S. 105-102.3 reads as rewritten:

"§ 105-102.3. Banks.

There is hereby imposed upon every bank or banking association, including each national banking association, that is operating in this State as a commercial bank, an industrial bank, a savings bank created other than under Chapter 54B or 54C of the General Statutes or the Home Owners' Loan Act of 1933 (12 U.S.C. §§ 1461-68), a trust company, or any combination of such facilities or services, and whether such bank or banking association, hereinafter to be referred to as a bank or banks, be organized, under the laws of the United States or the laws of North Carolina, in the corporate form or in some other form of business organization, an annual privilege tax in the amount of thirty dollars (\$30.00) for each one million dollars (\$1,000,000) or fractional part thereof of total assets held as hereinafter provided. The assets upon which the tax is levied shall be determined by averaging the total assets shown in the four quarterly call reports of condition (consolidating domestic subsidiaries) for the preceding calendar

year as required by bank regulatory authorities; provided, however, where a new bank commences operations within the State there shall be levied and paid an annual privilege tax of one hundred dollars (\$100.00) until such bank shall have made four quarterly call reports of condition (consolidating domestic subsidiaries) for a single calendar year; provided further, however, where a bank operates an international banking facility, as defined in G.S. 105-130.5(b)(13), the assets upon which the tax is levied shall be reduced by the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States, as computed pursuant to G.S. 105-130.5(b)(13)c. For an out-of-state bank with one or more branches in this State, or for an in-state bank with one or more branches outside this State, the assets of the out-of-state bank or of the in-state bank upon which the tax is levied shall be reduced by the average amount for the taxable year of all assets of the out-of-state bank or of the in-state bank which are employed outside this State. The tax imposed hereunder shall be for the privilege of carrying on the businesses herein defined on a statewide basis regardless of the number of places or locations of business within the State. Counties, cities and towns shall not levy a license or privilege tax on the businesses taxed under this section, nor on the business of an international banking facility as defined in subsection (b)(13) of G.S. 105-130.5."

Section 1(i). This section repeals any law that would otherwise exempt savings and loan associations, as defined in G.S. 54B-4, from the franchise tax imposed in Article 3 of Chapter 105 of the General Statutes.

Section 1(j). This section becomes effective for taxable years beginning on or after January 1, 1999.

Section 2. G.S. 105-17 is repealed.

Section 3. G.S. 105-25 is repealed.

Section 4. G.S. 105-130.5(a)(10) reads as rewritten:

"(10) The total amounts allowed under this ~~Article~~ Chapter during the taxable year as a credit against the taxpayer's income tax. A corporation that apportions part of its income to this State shall make the addition required by this subdivision after it determines the amount of its income that is apportioned and allocated to this State and shall not apply to a credit taken under this ~~Article~~ Chapter the apportionment factor used by it in determining the amount of its apportioned income."

Section 5. G.S. 105-131.1(b) reads as rewritten:

"(b) Each shareholder's pro rata share of an S Corporation's income attributable to the State and each resident shareholder's pro rata share of income not attributable to the State, shall be taken into account by the shareholder in the manner and subject to the adjustments provided in ~~Division II Parts 2 and 3~~ of this Article and section 1366 of the Code and shall be subject to the tax levied under ~~Division II Parts 2 and 3~~ of this Article."

Section 6. G.S. 105-131.6 reads as rewritten:

"§ 105-131.6. Distributions.

(a) Subject to the provisions of subsection (c) of this section, a distribution made by an S Corporation with respect to its stock to a resident shareholder ~~shall be~~ is taxable to the shareholder as provided in ~~Division II Parts 2 and 3~~ of this Article to the extent that the distribution is characterized as a dividend or as gain from the sale or exchange of property pursuant to section 1368 of the Code.

(b) Subject to the provisions of subsection (c) of this section, any distribution of money made by a corporation with respect to its stock to a resident shareholder during a post-termination transition period ~~shall not be~~ is not taxable to the shareholder as provided in ~~Division II Parts 2 and 3~~ of this Article to the extent the distribution is applied against and reduces the adjusted basis of the stock of the shareholder in accordance with section 1371(e) of the Code.

(c) In applying sections 1368 and 1371(e) of the Code to any distribution referred to in this section:

- (1) The term "adjusted basis of the stock" means the adjusted basis of the shareholder's stock as determined under G.S. ~~105-131.3; and 105-131.3.~~
- (2) The accumulated adjustments account maintained for each resident shareholder ~~shall must~~ be equal to, and ~~shall be~~ adjusted in the same manner as, the corporation's accumulated adjustments account defined in section 1368(e)(1)(A) of the Code, except that:
 - a. The accumulated adjustments account shall be modified in the manner provided in G.S. ~~105-131.3(b)(1); and 105-131.3(b)(1).~~
 - b. The amount of the ~~Corporation's~~ corporation's federal accumulated adjustments account that existed on the day this State began to measure the S Corporation shareholders' income by reference to the income of the S Corporation ~~shall be~~ is ignored and ~~shall be~~ is treated for purposes of ~~Divisions I and II~~ of this Article as additional accumulated earnings and profits of the corporation."

Section 7. G.S. 105-131.7(e) reads as rewritten:

"(e) Amounts paid to the Department on account of the corporation's shareholders under subsections (b) and (c) ~~shall~~ constitute payments on their behalf of the income tax imposed on them under ~~Division II Parts 2 and 3~~ of this Article for the taxable period."

Section 8. G.S. 105-131.8 reads as rewritten:

"§ 105-131.8. Tax credits.

(a) For purposes of G.S. ~~105-151, 105-151~~ and G.S. 105-160.4, each resident shareholder ~~shall be~~ is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S Corporation to a state ~~which that~~ does not measure the income of S Corporation shareholders by the income of the S Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income.

(b) ~~Each Except~~ as otherwise provided in G.S. 105-160.3, each shareholder of an S Corporation is allowed as a credit against the tax imposed by ~~Division II Parts 2 and 3~~

of this Article an amount equal to the shareholder's pro rata share of the tax credits for which the S Corporation is eligible."

Section 9. G.S. 105-134.1(7b) is repealed.

Section 10. G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

- (1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.
- (2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.
- (3) G.S. 105-151.18. Credit for the disabled.
- (4) G.S. 105-151.24. Credit for children.
- (5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers."

Section 11. G.S. 105-163.3(a) reads as rewritten:

"(a) Requirement. – Every payer who pays a contractor more than six hundred dollars (\$600.00) during a calendar year shall deduct and withhold from compensation paid to ~~a—the~~ contractor the State income taxes payable by the contractor on the compensation as provided in this section. The amount of taxes to be withheld is four percent (4%) of the compensation paid to the contractor. The taxes a payer withholds are held in trust for the Secretary."

Section 12. G.S. 105-163.3(b) reads as rewritten:

"(b) Exemptions. – The withholding requirement does not apply to the following:

- (1) Compensation that is subject to the withholding requirement of G.S. 105-163.2.
- (2) Compensation paid to an ordained or licensed member of the clergy.
- (3) Compensation paid to an entity exempt from tax under G.S. 105-130.11."

Section 13. G.S. 105-163.3(e) reads as rewritten:

"(e) Records. – If a payer does not withhold from payments to a nonresident entity because the entity is exempt from tax under G.S. 105-130.11, the payer shall obtain from the entity documentation proving its exemption from tax. If a payer does not withhold from payments to a nonresident corporation or a nonresident limited liability company because the entity has obtained a certificate of authority from the Secretary of State, the payer shall obtain from the entity its corporate identification number issued by the Secretary of State. If a payer does not withhold from payments to an individual because the individual is a resident, the payer shall obtain the individual's address and social security number. If a payer does not withhold from a partnership because the partnership has a permanent place of business in this State, the payer shall obtain the partnership's address and taxpayer identification number. The payer shall retain this information with its records."

Section 13.1(a). G.S. 105-164.3(16)f. reads as rewritten:

- "f. The sales price of tangible personal property sold through a coin-operated vending machine, other than closed-container soft drinks ~~subject to excise tax under Article 2B of this Chapter or~~ tobacco products, is considered to be fifty percent (50%) of the

total amount for which the property is sold in the vending machine."

Section 13.1(b). G.S. 105-259(b)(15) reads as rewritten:

- "(15) To exchange information concerning a tax imposed by Articles 2A, ~~2B~~, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the agency:
- a. The North Carolina Alcoholic Beverage Control Commission.
 - b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.
 - c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department."

Section 13.1(c). G.S. 105-267 reads as rewritten:

"§ 105-267. Taxes to be paid; suits for recovery of taxes.

No court of this State shall entertain a suit of any kind brought for the purpose of preventing the collection of any tax imposed in this Subchapter. Whenever a person has a valid defense to the enforcement of the collection of a tax, the person shall pay the tax to the proper officer, and that payment shall be without prejudice to any defense of rights the person may have regarding the tax. At any time within the applicable protest period, the taxpayer may demand a refund of the tax paid in writing from the Secretary and if the tax is not refunded within 90 days thereafter, may sue the Secretary in the courts of the State for the amount demanded. The protest period for a tax levied in Article 2A, ~~2B~~, 2C, or 2D of this Chapter is 30 days after payment. The protest period for all other taxes is one year after payment.

The suit may be brought in the Superior Court of Wake County, or in the county in which the taxpayer resides at any time within three years after the expiration of the 90-day period allowed for making the refund. If upon the trial it is determined that all or part of the tax was levied or assessed for an illegal or unauthorized purpose, or was for any reason invalid or excessive, judgment shall be rendered therefor, with interest, and the judgment shall be collected as in other cases. The amount of taxes for which judgment is rendered in such an action shall be refunded by the State. G.S. 105-241.2 provides an alternate procedure for a taxpayer to contest a tax and is not in conflict with or superseded by this section."

Section 13.1(d). This section becomes effective July 1, 1999.

Section 13.2. G.S. 105-164.4(a)(5) reads as rewritten:

- "(5) The rate of two percent (2%) applies to the sales price of food that is not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if it were purchased ~~with coupons issued under the Food Stamp Program, 7 U.S.C. § 51.~~"

Section 14. G.S. 105-164.13(11) reads as rewritten:

- "(11) Any of the following fuel:
- a. Motor fuel, as defined in G.S. 105-449.60, except motor fuel for which a refund of the per gallon excise tax is allowed under ~~G.S. 105-449.105(c) or (d) or under G.S. 105-449.107.~~

- b. Alternative fuel taxed under Article 36D of this Chapter, unless a refund of that tax is allowed under G.S. 105-449.107."

Section 14.1. G.S. 105-164.13(38) reads as rewritten:

"(38) Food and other items lawfully purchased ~~with coupons issued~~ under the Food Stamp Program, 7 U.S.C. § 51, and supplemental foods lawfully purchased with a food instrument issued under the Special Supplemental Food Program, 42 U.S.C. § 1786, and supplemental foods purchased for direct distribution by the Special Supplemental Food Program."

Section 15. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on lubricants, repair parts, and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or property in interstate commerce for ~~compensation, is subject to regulation by, and to the jurisdiction of, the Interstate Commerce Commission or the United States Department of Transportation, and is required by either federal agency to keep records according to generally accepted accounting principles (GAAP) or, in the case of a small certificated air carrier, to make reports of financial and operating statistics.~~ compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.
- (2) The purchase price of the items listed in subdivision (1) of this subsection.
- (3) The sales and use taxes paid in this State on the listed items.
- (4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period.
- (5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to

each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

Section 15.1. G.S. 105-187.6(a) reads as rewritten:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.
- (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.
- (3) To the same owner to reflect a change or correction in the owner's name.
- (4) By will or intestacy.
- (5) By a gift between a husband and wife, a parent and child, or a stepparent and a stepchild.
- (6) ~~By a distribution of marital property as a result of a divorce.~~ By a distribution of marital or divisible property incident to a marital separation or divorce.
- (7) To a handicapped person from the Department of Health and Human Services after the vehicle has been equipped by the Department for use by the handicapped.
- (8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:
 - a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.
 - b. By a local board of education."

Section 16. G.S. 105-197 reads as rewritten:

"§ 105-197. When return required; due date of tax and return.

(a) When Return Required. – Anyone who, during the calendar year, gives to a donee a gift of a future interest or one or more ~~gifts-taxable gifts~~ whose total value exceeds the amount of the annual exclusion set in G.S. 105-188(d) must file a gift tax return, under oath or affirmation, with the Secretary on a form prescribed by the Secretary. For the purpose of this section, a taxable gift is a gift that is not exempt under G.S. 105-188(h) or (i).

(b) Due Date. – The tax is due on April 15th following the end of the calendar year. A return must be filed on or before the due date of the tax. A taxpayer may ask the Secretary of Revenue for an extension of time for filing a return under G.S. 105-263."

Section 17. G.S. 105-228.5(d) reads as rewritten:

"(d) Tax Rates; Disposition. –

- (1) Workers Compensation. – The tax rate to be applied to gross premiums, or the equivalent thereof in the case of self-insurers, ~~collected on contracts~~ applicable to liabilities under the Workers' Compensation Act shall be two and five-tenths percent (2.5%). The net proceeds shall be credited to the General Fund.

- (2) Other Insurance Contracts. – The tax rate to be applied to gross premiums ~~collected~~ on all other insurance contracts issued by insurers shall be one and nine-tenths percent (1.9%). The net proceeds shall be credited to the General Fund.
- (3) Additional Statewide Fire and Lightning Rate. – An additional tax shall be applied to ~~amounts collected~~ gross premiums on contracts of insurance applicable to fire and lightning coverage, except in the case of marine and automobile policies, at the rate of one and thirty-three hundredths percent (1.33%). Twenty-five percent (25%) of the net proceeds of this additional tax shall be deposited in the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. The remaining net proceeds shall be credited to the General Fund.
- (4) Additional Local Fire and Lightning Rate. – An additional tax shall be applied to ~~amounts collected~~ gross premiums on contracts of insurance applicable to fire and lightning coverage within fire districts at the rate of one-half of one percent (1/2 of 1%). The net proceeds shall be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25.
- (5) Article 65 Corporations. – The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations shall be one-half of one percent (1/2 of 1%). The net proceeds shall be credited to the General Fund."

Section 18. G.S. 105-228.10 reads as rewritten:

"§ 105-228.10. No additional local taxes.

~~No county, city, or town shall be allowed to impose any additional tax, license, or fee, other than ad valorem taxes, upon any insurance company or association paying the fees and taxes. No city or county may levy on a person subject to the tax levied in this Article. Article a privilege tax or a tax computed on the basis of gross premiums."~~

Section 19. G.S. 105-249.3 is repealed.

Section 20. G.S. 105-259(b)(3) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

- (3) Review by a tax official of another ~~state or the Internal Revenue Commissioner of the United States jurisdiction~~ to aid the ~~state or the Commissioner jurisdiction~~ in collecting a tax imposed by this State, ~~the other state, or the United States State or the other jurisdiction~~ if the laws of the other ~~state or the United States allow the state or the United States jurisdiction allow it to~~ provide similar tax information to a representative of this State."

Section 21. G.S. 105-264 reads as rewritten:

"§ 105-264. Effect of Secretary's interpretation of revenue laws.

It ~~shall be~~ is the duty of the Secretary to interpret all laws administered by the Secretary. The Secretary's interpretation of these laws shall be consistent with the applicable rules.

An interpretation by the Secretary is prima facie correct. When the Secretary interprets a law by adopting a rule or publishing a bulletin or directive on the law, the interpretation is a protection to the officers and taxpayers affected by the interpretation, and taxpayers are entitled to rely upon the interpretation. If the Secretary changes ~~a rule or a bulletin, an interpretation,~~ a taxpayer who relied ~~upon the rule or bulletin on it~~ before it was changed is not liable for any penalty or additional assessment on any tax that accrued before the ~~rule or bulletin interpretation~~ was changed and was not paid by reason of reliance upon the ~~rule or bulletin interpretation~~. If a taxpayer requests in writing specific advice from the Department and receives in response erroneous written advice, the taxpayer is not liable for any penalty or additional assessment attributable to the erroneous advice furnished by the Department to the extent the advice was reasonably relied upon by the taxpayer and the penalty or additional assessment did not result from the taxpayer's failure to provide adequate or accurate information.

This section does not prevent the Secretary from changing an interpretation and it does not prevent a change in an interpretation from applying on and after the effective date of the change."

Section 22. G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.

(a) Classes Defined. – The following classes of property are ~~hereby~~ designated special classes of property under authority of ~~Article V, Sec. 2(2)~~ Section 2(2) of Article V of the North Carolina Constitution and shall be appraised, ~~assessed and taxed as hereinafter provided;~~ assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

- (1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which consists of at least 10 acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land and any payments received under a governmental soil conservation or land retirement program. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.
- (2) Horticultural land. – Individually owned horticultural land consisting of one or more tracts, one of which consists of at least five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have ~~either~~ met the applicable minimum gross income requirement. Land in actual production includes land under

improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products. Land that has been

- a. ~~Been used to produce evergreens intended for use as Christmas trees and must have met the qualifying or minimum gross income requirements established by the Department of Revenue for the land; or~~
 - b. ~~Produced land. All other horticultural land must have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the horticultural products produced from the land and any payments received under a governmental soil conservation or land retirement program. Land in actual production includes land under improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products.~~
- (3) Forestland. – Individually owned forestland consisting of one or more tracts, one of which consists of at least 20 acres that are in actual production and are not included in a farm unit.

(b) Natural Person Ownership Requirements. – In order to come within a classification described in ~~subdivision (a)(1), (2) or (3), above, the property must, subsection (a) of this section, the land must, if owned by natural persons, a natural person,~~ also satisfy one of the following conditions:

- (1) It is the owner's place of residence.
- (2) It has been owned by the current owner or a relative of the current owner for the four years preceding January 1 of the year for which the benefit of this section is claimed.
- (3) At the time of transfer to the current owner, it qualified for classification in the hands of a business entity or trust ~~which that~~ transferred the property land to the current owner who was a member of the business entity or a beneficiary of the trust, as appropriate.

(b1) Entity Ownership Requirements. ~~– If In order to come within a classification described in subsection (a) of this section, the land must, if owned by a business entity or trust, the property must have been owned by the business entity or trust or by one or more of its members, or by one or more of its creators in the case of a trust, members or creators, respectively, for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed. Notwithstanding the provisions of G.S. 105-277.2(4)b, a business entity qualifying for a classification described in G.S. 105-277.3 shall not lose the benefit of the classification by reason of the death of one of its members if the decedent's ownership passes to and remains in a relative of the decedent.~~

(b2) Exception to Ownership Requirements. ~~– Property loses its eligibility for the classifications described in subsection (a) of this section if ownership of the property passes to anyone other than a relative of the owner or passes to or from a business entity or trust from or to anyone other than its members or its creators or beneficiaries, respectively, except that property does not lose its eligibility if both of the following~~

~~conditions are met: (i) it—G.S. 105-277.4(c) provides that deferred taxes are payable if land fails to meet any condition or requirement for classification. Accordingly, if land fails to meet an ownership requirement due to a change of ownership, G.S. 105-277.4(c) applies. Despite this failure and the resulting liability for taxes under G.S. 105-277.4(c), the land may qualify for classification in the hands of the new owner if both of the following conditions are met, even if the new owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the land:~~

- ~~(1) The land was appraised at its present use value or was eligible for appraisal at its present use value pursuant to that subsection at the time title to the property land passed to the present owner, and (ii) at new owner.~~
- ~~(2) At the time title to the property land passed to the present new owner, the owner owned other property land classified under subsection (a).~~

~~The fact that property may retain its eligibility because the preceding two conditions were met does not affect any liability for deferred taxes under G.S. 105-277.4(c) if those taxes were otherwise due at the time title passed to the present owner.~~

~~(c) Repealed by Session Laws 1995, c. 454, s. 2.~~

~~(d) Exception for Conservation Reserve Program. —Enrollment—Land enrolled in the federal Conservation Reserve Program authorized by Title XII of the Food Security Act of 1985 (Pub. L. 99-198), as amended, shall not preclude eligibility of land for present use value treatment solely on the grounds that the land is no longer 16 U.S.C. § 1381 is considered to be in actual production, and income derived from participation in the federal Conservation Reserve Program may be used in meeting the minimum gross income requirements of this section either separately or in combination with income from actual production. Land enrolled in the federal Conservation Reserve Program shall be assessed as agricultural land if it is planted in vegetation other than trees, or as forest land and forestland if it is planted in trees.~~

~~(e) Exception for Turkey Disease. —Notwithstanding the provisions of subsection (a) of this section, agricultural—Agricultural land that meets all of the following conditions does not lose its eligibility for present use value treatment solely on the grounds that it is no longer in actual production, it no longer meets the minimum income requirements, or both: is considered to be in actual production and to meet the minimum gross income requirements:~~

- ~~(1) The land was in actual production in turkey growing within the preceding two years and qualified for present use value treatment while it was in actual production.~~
- ~~(2) The land was taken out of actual production in turkey growing solely for health and safety considerations due to the presence of Poult Enteritis Mortality Syndrome among turkeys in the same county or a neighboring county.~~
- ~~(3) The land is otherwise eligible for present use value treatment."~~

~~Section 23. G.S. 105-277.4(c) reads as rewritten:~~

~~"(c) Deferred Taxes. —Property—Land meeting the conditions for classification under G.S. 105-277.3 shall be taxed on the basis of the value of the property land for its~~

present use. The difference between the taxes due on the present-use basis and the taxes ~~which that~~ would have been payable in the absence of this classification, together with any interest, penalties, or costs that may accrue thereon, ~~shall be~~ are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the taxing unit or units as deferred taxes, ~~but shall not be payable, unless and until the property loses its eligibility for the benefit of this classification.~~ taxes. The taxes become due and payable when the land fails to meet any condition or requirement for classification. The tax for the fiscal year that opens in the calendar year in which ~~a disqualification occurs~~ deferred taxes become due is computed as if the ~~property land~~ had not been classified for that year, and taxes for the preceding three fiscal years ~~which that~~ have been deferred ~~shall immediately be~~ are immediately payable, together with interest ~~thereon~~ as provided in G.S. 105-360 for unpaid taxes ~~which shall accrue taxes.~~ Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. If only a part of the qualifying tract of land ~~loses its eligibility,~~ fails to meet a condition or requirement for classification, a determination shall be made of the amount of deferred taxes applicable to that part and that amount ~~shall become~~ becomes payable with interest as provided above. Upon the payment of any taxes deferred in accordance with this section for the three years immediately preceding a disqualification, all liens arising under this subsection ~~shall be~~ are extinguished."

Section 24. G.S. 105-277.2(4)b. reads as rewritten:

- "b. A business entity having as its principal business one of the activities described in subdivisions (1), (2), and (3) and whose members ~~are all either a natural person~~ are all natural persons who meet one or more of the following conditions:
1. The member is actively engaged in the business of the entity or a entity.
 2. The member is a relative of a member who is actively engaged in the business of the entity.
 3. The member is a relative of, and inherited the membership interest from, a decedent who met one or both of the preceding conditions after the land qualified for classification in the hands of the business entity."

Section 25. G.S. 105-333(14) reads as rewritten:

- "(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company. ~~any other~~ The term also includes any company performing a public service that is regulated by the Interstate Commerce Commission, the Federal Power Commission, United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water

company, a radio common carrier company as defined in G.S. 62-119(3), a cable television company, or a radio or television broadcasting company. ~~The term also includes a motor freight carrier company. For purposes of appraisal under this Article, the term also includes a pipeline company whether or not it performs a public service and whether or not it is regulated by one of the regulatory agencies named in this subdivision."~~

Section 26. G.S. 105-378(c) is repealed.

Section 27. G.S. 105-395(b) is repealed.

Section 28. G.S. 105-449.88(2) reads as rewritten:

"(2) Motor fuel sold to the federal ~~government~~ government for its use."

Section 29. G.S. 105-449.105(d) is repealed.

Section 30. G.S. 105-449.110(b) reads as rewritten:

"(b) Interest. – The rate of interest payable on a refund is the rate set in ~~G.S. 105-242.1(i).~~ G.S. 105-241.1(i). Interest accrues on a refund from the date that is 90 days after the later of the following:

(1) The date the application for refund was filed.

(2) The date the application for refund was due."

Section 30.1. G.S. 105-467(5) reads as rewritten:

"(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were ~~purchased with coupons~~ issued under the Food Stamp Program, 7 U.S.C. § 51."

Section 31. G.S. 105-487 reads as rewritten:

"§ 105-487. Use of additional tax revenue by ~~counties and municipalities.~~ counties.

(a) Except as provided in subsection (c), forty percent (40%) of the revenue received by a county from additional one-half percent (1/2%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the county and thirty percent (30%) of the revenue received by a county from these taxes in the next 10 fiscal years in which the taxes are in effect in the county may be used by the county only for public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes.

~~(b) Except as provided in subsection (c), forty percent (40%) of the revenue received by a municipality from additional one-half percent (1/2%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the municipality and thirty percent (30%) of the revenue received by a municipality from these taxes in the second five fiscal years in which the taxes are in effect in the municipality may be used by the municipality only for water and sewage capital outlay purposes or to retire any indebtedness incurred by the municipality for these purposes.~~

(c) The Local Government Commission may, upon petition by a ~~county or municipality,~~ authorize a county or municipality ~~county,~~ authorize the county to use part or all its tax revenue, otherwise required by subsection (a) ~~or (b) of this section~~ to be

used for public schools ~~or water and sewage~~ school capital needs, for any lawful purpose. The petition shall be in the form of a resolution adopted by the ~~City Council or~~ Board of County Commissioners and transmitted to the Local Government Commission. The petition shall demonstrate that the county ~~or municipality~~ can provide for its public school ~~or water and sewage~~ capital needs without restricting the use of part or all of the designated amount of the additional one-half percent (1/2%) sales and use tax revenue for ~~these purposes.~~ that purpose.

In making its decision, the Local Government Commission shall consider information contained in the petition concerning not only the public school ~~or water and sewage~~ capital needs, but also the other capital needs of the petitioning ~~county or municipality.~~ county. The Commission may also consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the public school ~~or water and sewage~~ capital needs of the petitioning county ~~or municipality~~ and the percentage of revenue otherwise restricted by subsection (a) ~~or (b) of this section~~ that may be used by the petitioning county ~~or municipality~~ for any lawful purpose.

Decisions of the Commission allowing counties ~~or municipalities~~ to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) ~~or (b) of this section~~ for any lawful purpose are final and shall continue in effect until the restrictions imposed by ~~those subsections~~ that subsection expire. A county ~~or municipality~~ whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(d) For purposes of determining the number of fiscal years in which one-half percent (1/2%) sales and use taxes levied under this Article have been in effect in a ~~county or municipality,~~ county, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect.

(e) A county ~~or municipality~~ may expend part or all of the revenue restricted for public school ~~or water and sewage~~ capital needs pursuant to ~~subsections (a) and (b)~~ subsection (a) of this section in the fiscal year in which the revenue is received, or the county ~~or municipality~~ may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes."

Section 32. G.S. 105-504 is repealed.

Section 33. G.S. 105-550 reads as rewritten:

"§ 105-550. Definitions.

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

- (1) Authority. – A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of Chapter 160A of the General Statutes.
- (2) Long-term lease or rental. – Defined in G.S. 105-187.1.
- (3) Motorcycle. – Defined in G.S. 20-4.01.
- (4) ~~Private passenger vehicle. – Defined in G.S. 20-4.01.~~

- (5) Public transportation system. – Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures, improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride services, high-occupancy vehicle facilities, carpool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, bus lanes, and busways. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.
- (6) Short-term lease or rental. – A lease or rental that is not a long-term lease or rental.
- (7) U-drive-it passenger vehicle. – Defined in G.S. 20-4.01."

Section 34. G.S. 105-551(a) reads as rewritten:

"(a) Tax. – The board of trustees of an Authority may levy a privilege tax on a retailer who is engaged in the business of leasing or renting ~~private~~ U-drive-it passenger vehicles or motorcycles based on the gross receipts derived by the retailer from the short-term lease or rental of these vehicles. The tax rate must be a percentage and may not exceed five percent (5%). A tax levied under this section applies to short-term leases or rentals made by a retailer whose place of business or inventory is located within the territorial jurisdiction of the Authority. This tax is in addition to all other taxes."

Section 35. G.S. 105-552(b) reads as rewritten:

"(b) Collection. – A tax levied by an Authority under this Article shall be collected by the Authority but shall otherwise be administered in the same manner as the optional gross receipts tax levied by G.S. 105-187.5. Like the optional gross receipts tax, a tax levied under this Article is to be added to the lease or rental price of a ~~private~~ U-drive-it passenger vehicle or motorcycle and thereby be paid by the person to whom it is leased or rented.

A tax levied under this Article applies regardless of whether the retailer who leases or rents the ~~private~~ U-drive-it passenger vehicle or motorcycle has elected to pay the optional gross receipts tax on the lease or rental receipts from the vehicle. A tax levied under this Article must be paid to the Authority that levied the tax by the date an optional gross receipts tax would be payable to the Secretary of Revenue under G.S. 105-187.5 if the retailer who leases or rents the ~~private~~ U-drive-it passenger vehicle or motorcycle had elected to pay the optional gross receipts tax."

Section 36. S.L. 1997-139 is reenacted.

Section 37. Article 3 of Chapter 66 of the General Statutes is repealed.

Section 38(a). G.S. 105A-2(2)e. reads as rewritten:

"e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an

intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:

1. ~~The Aid to Families with Dependent Children Work First Program or the Aid to Families with Dependent Children—Emergency Assistance Program, enabled by provided in Article 2 of Chapter 108A, Article 2, Part 2. 108A of the General Statutes.~~
2. ~~The Work First Cash Assistance—State-County Special Assistance for Adults Program established pursuant to federal waivers received by the Department of Health and Human Services on February 5, 1996. enabled by Part 3 of Article 2 of Chapter 108A of the General Statutes.~~
3. ~~The State-County Special Assistance for Adults Program, enabled by Chapter 108A, Article 2, Part 3. A successor program of one of these programs.~~
4. ~~A successor program of one of these programs. of the General Statutes or"~~

Section 38(b). This section becomes effective January 1, 2000.

Section 39. G.S. 120-70.105 reads as rewritten:

"§ 120-70.105. Creation and membership of the Revenue Laws Study Committee.

(a) Membership. – The Revenue Laws Study Committee is established. The Committee consists of 16 members as follows:

- (1) Eight members appointed by the President Pro Tempore of the Senate; the persons appointed may be members of the Senate or public members.
- (2) Eight members appointed by the Speaker of the House of Representatives; the persons appointed may be members of the House of Representatives or public members.

(b) Terms. – Terms on the Committee are for two years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment. Legislative members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until ~~his~~ a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment."

Section 40. Article 8 of Chapter 136 of the General Statutes is repealed.

PART II. CONFORM STATUTORY NOMENCLATURE.

Section 41. The designation of G.S. 105-103 through G.S. 105-113 as Division I of Article 2 of Chapter 105 of the General Statutes is eliminated, so that Article 2 contains G.S. 105-33 through G.S. 105-113 without any subdivision into Parts.

Section 42. Division I of Article 4 of Chapter 105 of the General Statutes is redesignated Part 1.

Section 43. Division IS of Article 4 of Chapter 105 of the General Statutes is redesignated Part 1A.

Section 44. Division II of Article 4 of Chapter 105 of the General Statutes is redesignated Part 2.

Section 45. Division III of Article 4 of Chapter 105 of the General Statutes is redesignated Part 3.

Section 46. Division V of Article 4 of Chapter 105 of the General Statutes is redesignated Part 5.

Section 47. Division I of Article 5 of Chapter 105 of the General Statutes is redesignated Part 1.

Section 48(a). G.S. 105-164.4 through G.S. 105-164.12A are merged into Division II of Article 5 of Chapter 105 of the General Statutes without subdivision into Parts, and the designations for Parts 1 through 4 of that Division are eliminated.

Section 48(b). Division II of Article 5 of Chapter 105 of the General Statutes is redesignated Part 2.

Section 49. Division III of Article 5 of Chapter 105 of the General Statutes is redesignated Part 3.

Section 50. Division IV of Article 5 of Chapter 105 of the General Statutes is redesignated Part 4.

Section 51. Division V of Article 5 of Chapter 105 of the General Statutes is redesignated Part 5.

Section 52. Division VI of Article 5 of Chapter 105 of the General Statutes is redesignated Part 6.

Section 53. Division VII of Article 5 of Chapter 105 of the General Statutes is redesignated Part 7.

Section 54. Division VIII of Article 5 of Chapter 105 of the General Statutes is redesignated Part 8.

Section 55. The title of Article 1 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 1.

~~Schedule A.~~ Inheritance Tax."

Section 56. The title of Article 2A of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 2A.

~~Schedule B-A.~~ Tobacco Products Tax."

Section 57. The title of Article 2B of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 2B.

~~Schedule B-B.~~ Soft Drink Tax."

Section 58. The title of Article 2C of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 2C.

~~Schedule B-C.~~ Alcoholic Beverage License and Excise Taxes."

Section 59. The title of Article 2D of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 2D.

~~Schedule B-D.~~ Unauthorized Substances Taxes."

Section 60. The title of Article 3 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3.

~~Schedule C.~~ Franchise Tax."

Section 61. The title of Article 4 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 4.

~~Schedule D.~~ Income Tax."

Section 62. The title of Article 5 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 5.

~~Schedule E.~~ Sales and Use Tax."

Section 63. The title of Article 6 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 6.

~~Schedule G.~~ Gift Taxes."

Section 64. The title of Article 8A of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 8A.

~~Schedule I-A.~~ Gross Earnings Taxes on Freight Line Companies
in Lieu of Ad Valorem Taxes."

Section 65. The title of Article 8B of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 8B.

~~Schedule I-B.~~ Taxes upon Insurance Companies."

Section 66. The title of Article 8D of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 8D.

~~Schedule I-D.~~ Taxation of Savings and Loan
Associations."

Section 67. The title of Article 9 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 9.

~~Schedule J.~~ General Administration; Penalties and
Remedies."

Section 68. The following sections of the General Statutes are amended by deleting the phrase "This Division" each time it occurs and substituting "This Part":

G.S. 105-130

G.S. 105-131(a)

G.S. 105-131.1(b)

G.S. 105-133

G.S. 105-160

Section 69. The following sections of the General Statutes are amended by deleting the phrase "this Division" or "this division" each time it occurs and substituting "this Part":

G.S. 105-130.1

G.S. 105-130.2

G.S. 105-130.4(l)(1)

G.S. 105-130.4(m)

G.S. 105-130.5(a)(2)

G.S. 105-130.5(c)

G.S. 105-130.6

G.S. 105-130.8

G.S. 105-130.11

G.S. 105-130.12

G.S. 105-130.15

G.S. 105-130.16

G.S. 105-130.18

G.S. 105-130.22

G.S. 105-130.23

G.S. 105-130.25

G.S. 105-130.34

G.S. 105-130.41

G.S. 105-130.42

G.S. 105-131(b) & (c)

G.S. 105-134

G.S. 105-134.1

G.S. 105-134.3

G.S. 105-134.6

G.S. 105-151.1

G.S. 105-151.2

G.S. 105-151.11(a)

G.S. 105-151.12

G.S. 105-151.18(a) & (b)

G.S. 105-151.20

G.S. 105-151.22

G.S. 105-151.23

G.S. 105-151.24

G.S. 105-151.26

G.S. 105-152(a) through (d)

G.S. 105-154

G.S. 105-156

G.S. 105-158

G.S. 105-160.1
G.S. 105-160.2
G.S. 105-160.4(a)
G.S. 105-160.5
G.S. 105-160.8
G.S. 105-163.010
G.S. 105-163.013
G.S. 105-163.014

Section 70. The following sections of the General Statutes are amended by deleting the phrase "Division I" each time it occurs and substituting the phrase "Part 1":

G.S. 105-131(b)(2)
G.S. 105-164.44C
G.S. 105-275.1(e)
G.S. 105-277.001(f)
G.S. 105-277.1A(f)

Section 71. The following sections of the General Statutes are amended by deleting the phrase "Division II" each time it occurs and substituting the phrase "Part 2":

G.S. 105-160.1
G.S. 105-160.4(e)
G.S. 105-163.011(b) & (b1)
G.S. 105-163.012
G.S. 105-163.15
G.S. 105-269.6
G.S. 105-275.2

Section 72. The following sections of the General Statutes are amended by deleting the phrase "Division V" each time it occurs and substituting the phrase "Part 5":

G.S. 105-116(a)
G.S. 105-120(a)
G.S. 105-120.2(f)
G.S. 105-122(d)

Section 73. G.S. 105-7 reads as rewritten:

"§ 105-7. Estate tax.

(a) A tax in addition to the inheritance tax imposed by this ~~schedule is hereby~~ Article is imposed upon the transfer of the net estate of every decedent, whether a resident or nonresident of the State, where the inheritance tax imposed by this ~~schedule~~ Article is less than the maximum state death tax credit allowed by the Federal Estate Tax Act as contained in the Code because of ~~said tax herein imposed.~~ the tax imposed by this Article. In such a case, the inheritance tax ~~provided for by this schedule~~ imposed by this Article shall be increased by an estate tax on the net estate so that the aggregate amount of tax due this State ~~shall be equals~~ shall be equal to the maximum amount of credit allowed under ~~said the~~ said Federal Estate Tax Act. ~~Said This~~ This additional tax shall be paid out of the same funds as any other tax against the estate.

(b) ~~Where~~ If no tax is imposed by this ~~schedule~~ Article because of the exemptions ~~herein~~ or otherwise, and a tax is ~~shall be~~ due the United States under the Federal Estate Tax Act, then a tax is ~~shall be~~ due this State equal to the maximum amount of the credit allowed under ~~said the~~ Federal Estate Tax Act.

(c) The administrative provisions of this ~~schedule~~ Article, wherever applicable, shall apply to the collection of the tax imposed by this section. The amount of the tax as imposed by subsection (a) of this section shall be computed in full accordance with the Federal Estate Tax Act as contained in the Code."

Section 74. G.S. 105-8 reads as rewritten:

"§ 105-8. Treatment allowed for gift tax paid.

~~In case a tax has been imposed under Schedule G of the Revenue Act of 1937, or under subsequent acts, If a tax has been imposed under Article 6 of this Chapter upon any gift, and thereafter upon the death of the donor, the amount thereof of the gift is required by any provision of this Article to be included in the gross estate of the decedent, then there shall be credited against and applied in reduction of the tax, which would otherwise be chargeable against the beneficiaries of the estate under the provisions of this Article, an amount equal to the tax paid with respect to such the gift. Any additional tax found to be due because of the inclusion of gifts in the gross estate of the decedent, as provided herein, decedent shall be a tax against the estate and shall be paid out of the same funds as any other tax against the estate."~~

Section 75. The introductory language of G.S. 105-9 reads as rewritten:

"§ 105-9. Deductions.

In determining the clear market value of property taxed under this Article, ~~or schedule~~, the following deductions, and no others, shall be allowed:"

Section 76. G.S. 105-114(a)(2) reads as rewritten:

"(2) Corporations not organized under the laws of this State for doing business in this State and for the benefit and protection which ~~such~~ these corporations receive from the government and laws of this State in doing business in this State.

If the corporation is organized under the laws of this State, the payment of the taxes levied by this Article shall be a condition precedent to the right to continue in ~~such the corporate~~ form of organization; and if the corporation is not organized under the laws of this State, payment of these taxes shall be a condition precedent to the right to continue to engage in doing business in this State. The taxes levied in this Article ~~or schedule shall be~~ are for the fiscal year of the State in which the taxes become due; except that the taxes levied in G.S. 105-122 ~~shall be~~ are for the income year of the corporation in which the taxes become due.

G.S. 105-122 does not apply to street transportation systems taxed under G.S. 105-120.1 or holding companies taxed under G.S. 105-120.2. G.S. 105-122 applies to a corporation taxed under another section of this Article only to the extent the taxes levied on the

corporation in G.S. 105-122 exceed the taxes levied on the corporation in other sections of this Article."

Section 77. G.S. 105-122(a) reads as rewritten:

"(a) Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this ~~Article or schedule,~~ Article, shall, on or before the fifteenth day of the third month following the end of its income year, ~~annually,~~ annually make and deliver to the Secretary of Revenue ~~in such form as he may prescribe in the form prescribed by the Secretary~~ a full, ~~accurate~~ accurate, and complete report and statement signed by either its president, vice-president, treasurer, assistant treasurer, secretary or assistant secretary, containing ~~such the~~ facts and information ~~as may be required by the Secretary of Revenue~~ as shown by the books and records of the corporation at the close of ~~such the~~ income year.

There shall be annexed to the return required by this subsection the affirmation of the officer signing the return in the following form: "Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this return, including any accompanying schedules and statements, is true and complete. If prepared by a person other than taxpayer, ~~his~~ this affirmation is based on all information of which ~~he~~ the preparer has any knowledge."

Section 78. G.S. 105-127(b) is repealed.

Section 79. G.S. 105-130.26 reads as rewritten:

"§ 105-130.26. Credit ~~against corporate income tax for conversion of industrial boiler to wood fuel.~~

~~Any corporation which~~ A corporation that modifies or replaces an oil or gas-fired boiler or kiln and the associated fuel and residue handling equipment used in the manufacturing process of a manufacturing business located in this State with one ~~which that~~ that is capable of burning wood ~~shall be~~ is allowed as a credit against the tax imposed by this ~~Division, Part~~ an amount equal to fifteen percent (15%) of the installation and equipment cost of ~~such conversion; provided, that in order to secure the conversion paid during the taxable year.~~ In order to claim the credit allowed by this section, the taxpayer must own or control the business in which ~~such the~~ boiler or kiln is used at the time of ~~such conversion and payment in part or in whole for such installation and equipment must be made by the taxpayer during the tax year for which the credit is claimed; and the amount of credit allowed for any one income year shall be limited to fifteen percent (15%) of such costs paid during the year; and the the conversion.~~ The credit allowed by this section ~~shall~~ may not exceed the amount of the tax imposed by this ~~Division, Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except for payments of tax made by or on behalf of the taxpayer. If a credit is granted under this section to a taxpayer engaged in the business of poultry production and that credit exceeds the tax imposed under this ~~Division, Part,~~ the excess may be carried forward ~~and applied to the tax imposed under this Division~~ for the succeeding five years."

Section 80. G.S. 105-130.27(a) reads as rewritten:

"(a) Credit Allowed. — ~~Any corporation which~~ A corporation that constructs in North Carolina a distillery to make ethanol from agricultural or forestry products for qualified uses ~~shall be~~ is allowed a credit against the tax imposed by this ~~Division~~ Part. Subject to the limitation provided in subsection (d) of this section, the amount of the credit shall be equal to twenty percent (20%) of the installation and construction costs of the ~~distillery, distillery paid during the year preceding the taxable year, and an~~ additional ten percent (10%) of those costs if the distillery is to be powered by use of an alternative fuel source. No credit is allowed, however, for the costs of purchasing the land or site work, which includes rock, paving, and excavation. In order to secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction, ~~and payment for the installation and construction must be made by the taxpayer during the year preceding the year for which the credit is claimed. The amount of the credit allowed for any one taxable year shall be limited to twenty percent (20%) of the installation and construction costs paid during such year, or thirty percent (30%) if the distillery is to be powered by an alternative fuel source.~~ construction. Invoices or receipts shall be furnished to substantiate a claim or a credit under this section if requested by the ~~Secretary of Revenue.~~ Secretary. The credit allowed by this section ~~shall may~~ not exceed the amount of the tax imposed by this ~~Division~~ Part for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except for payments of tax made by or on behalf of the taxpayer."

Section 81. G.S. 105-130.27A reads as rewritten:

"§ 105-130.27A. Credit ~~against corporate income tax~~ for construction of a peat facility.

(a) ~~Any corporation which~~ A corporation that constructs in North Carolina a facility ~~which that~~ uses peat as the feedstock for the production of a commercially manufactured energy source to replace petroleum, natural ~~gas or other gas, or another~~ nonrenewable energy ~~sources shall be~~ source is allowed a credit against the tax imposed by this ~~Division~~ Part equal to twenty percent (20%) of the installation and equipment costs of ~~construction; provided, that the credit shall not be allowed~~ construction paid during the taxable year. No credit is allowed, however, to the extent that any of the cost of the system was provided by federal, State, or local grants. In order to secure the credit allowed by this section, the taxpayer must own or control ~~such the~~ facility at the time of construction, ~~and the credit allowed by this section shall not exceed~~ construction. The credit allowed by this section ~~may not exceed~~ the amount of the tax imposed by this ~~Division~~ Part for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except for payments of tax made by or on behalf of the taxpayer.

(b) The amount of unused credit allowed under this section may be carried over for the next succeeding five years."

Section 82. G.S. 105-130.28(a) reads as rewritten:

"(a) Any corporation that constructs in North Carolina a facility for the production of photovoltaic equipment is allowed a credit against the tax imposed by this ~~Division~~ Part equal to twenty-five percent (25%) of the installation and equipment costs of ~~construction. This credit shall not be allowed~~ construction paid during the taxable year.

No credit is allowed, however, to the extent that any of the costs of the equipment were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. The credit allowed by this section may not exceed the amount of the tax imposed by this Division Part for the taxable year reduced by the sum of all credits allowable under this Division, allowable, except payments of tax made by or on behalf of the taxpayer."

Section 83. G.S. 105-130.29 reads as rewritten:

"§ 105-130.29. Credit ~~against corporate income tax~~ for construction of an olivine brick facility.

(a) Any corporation that constructs in North Carolina a facility for the production of olivine bricks for thermal storage ~~shall be is~~ allowed a credit against the tax imposed by this ~~Division Part~~ equal to twenty percent (20%) of the installation and equipment costs of ~~construction. This credit shall not be allowed construction paid during the taxable year.~~ No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. The credit allowed by this section may not exceed the amount of the tax imposed by this Division Part for the taxable year reduced by the sum of all credits allowable under this Division, allowable, except payments of tax made by or on behalf of the taxpayer.

(b) The amount of credit allowed under this section may be carried over for the next succeeding five years."

Section 84. G.S. 105-130.30 reads as rewritten:

"§ 105-130.30. Credit ~~against corporate income tax~~ for construction of a methane gas facility.

(a) Any corporation that constructs in North Carolina a facility for the production of methane gas from renewable biomass resources ~~shall be is~~ allowed a credit against the tax imposed by this ~~Division Part~~ equal to ten percent (10%) of the installation and equipment costs of ~~construction. construction paid during the taxable year.~~ The credit allowed under this section may not exceed two thousand five hundred dollars (\$2,500) for any single installation. ~~This credit shall not be allowed.~~ No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. The credit allowed by this section may not exceed the amount of the tax imposed by this Division Part for the taxable year reduced by the sum of all credits allowable under this Division, allowable, except payments of tax made by or on behalf of the taxpayer.

(b) As used in this section, "renewable biomass resources" means organic matter produced by terrestrial and aquatic plants and animals such as standing vegetation, aquatic crops, forestry and agricultural ~~residues~~ residues, and animal wastes that can be used for the production of energy."

Section 85. G.S. 105-130.31 reads as rewritten:

"§ 105-130.31. Credit ~~against corporate income tax~~ for installation of a wind energy device.

(a) Any corporation that constructs or installs a wind energy device for the production of electricity at a site located in this State ~~shall be~~ is allowed a credit against the tax imposed by this ~~Division-Part~~ equal to ten percent (10%) of the installation and equipment costs of the wind energy ~~device. device paid during the taxable year.~~ The credit allowed under this section may not exceed one thousand dollars (\$1,000) for any single installation. ~~This credit shall not be allowed.~~ No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the wind energy device is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this ~~Division-Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except payments of tax made by or on behalf of the taxpayer.

(b) As used in this section, "wind energy device" means equipment (and parts solely related to the functioning of the equipment) that, when installed on a site, transmits or uses wind energy to generate electricity."

Section 86. G.S. 105-130.32 reads as rewritten:

"§ 105-130.32. Credit against corporate income tax for installation of solar energy equipment for the production of heat or electricity in certain processes.

(a) Any corporation that constructs or installs solar energy equipment for the production of heat or electricity in the manufacturing or service processes of its business located in this State is allowed a credit against the tax imposed by this ~~Division-Part~~ equal to thirty-five percent (35%) of the installation and equipment costs of the solar energy ~~equipment. equipment paid during the taxable year.~~ The credit allowed under this section may not exceed twenty-five thousand dollars (\$25,000) for any single installation. ~~This credit shall not be allowed.~~ No credit is allowed, however, to the extent that any of the costs of the equipment were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the business at the time the solar energy equipment is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this ~~Division-Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except payments of tax made by or on behalf of the taxpayer.

(b) As used in this section, "solar energy equipment" means equipment and materials designed to collect, store, transport, or control energy derived directly from the sun."

Section 87. G.S. 105-130.33(a) reads as rewritten:

"(a) Any corporation that constructs or installs a hydroelectric generator with a capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream located in this State shall be allowed a credit against the tax imposed by this ~~Division-Part~~ equal to ten percent (10%) of the installation and equipment costs of the hydroelectric ~~generator. paid during the taxable year.~~ The credit allowed under this section may not exceed five thousand dollars (\$5,000) for any single installation. ~~This credit shall not be allowed.~~ No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the

hydroelectric generator is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this ~~Division-Part~~ for the taxable year reduced by the sum of all credits allowable under this ~~Division, Part,~~ except payments of tax made by or on behalf of the taxpayer."

Section 88. G.S. 105-130.36(a) reads as rewritten:

"(a) Any corporation that purchases conservation tillage equipment for use in a farming business, including tree farming, shall be allowed a credit against the tax imposed by this ~~Division-Part~~ equal to twenty-five percent (25%) of the cost of the ~~equipment.~~ equipment paid during the taxable year. This credit may not exceed two thousand five hundred dollars (\$2,500) for any ~~income-taxable~~ year for any taxpayer. The credit may ~~only~~ be claimed only by the first purchaser of the equipment and may not be claimed by a corporation that purchases the equipment for resale or for use outside this State. This credit may not exceed the amount of tax imposed by this ~~Division-Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except tax payments made by or on behalf of the taxpayer. If the credit allowed by this section exceeds the tax imposed under this ~~Division, Part,~~ the excess may be carried forward ~~and applied to the tax imposed under this Division~~ for the succeeding five years. The basis in any equipment for which a credit is allowed under this section shall be reduced by the amount of credit allowable."

Section 89. G.S. 105-130.37(a) reads as rewritten:

"(a) Any corporation that grows a crop and permits the gleaning of the crop ~~during the taxable year is~~ shall be allowed a credit against the tax imposed by this ~~Division-Part~~ equal to ten percent (10%) of the market price of the quantity of the gleaned crop. This credit may not exceed the amount of tax imposed by this ~~Division Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except tax payments made by or on behalf of the taxpayer. No deduction is allowed under G.S. 105-130.5(b)(5) for the items for which a credit is claimed under this section. Any unused portion of the credit may be carried forward for the succeeding five years."

Section 90. G.S. 105-130.39 reads as rewritten:

"§ 105-130.39. Credit for certain telephone subscriber line charges.

(a) A corporation that provides local telephone service to low-income residential consumers at reduced rates pursuant to an order of the North Carolina Utilities Commission is allowed a credit against the tax imposed by this ~~Division-Part~~ equal to the difference ~~between:~~ between the following:

- (1) The amount of receipts the corporation would have received during the taxable year from those low-income customers had the customers been charged the regular rates for local telephone service and ~~fees; and fees.~~
- (2) The amount billed those low-income customers for local telephone service during the taxable year.

(b) This credit is allowed only for a reduction in local telephone service rates and fees and is not allowed for any reduction in interstate subscriber line charges. This credit may not exceed the amount of tax imposed by this ~~Division-Part~~ for the taxable

year reduced by the sum of all credits ~~allowed under this Division, allowable,~~ except tax payments made by or on behalf of the corporation."

Section 91. G.S. 105-134.7(a)(7) reads as rewritten:

"(7) The transitional adjustments provided in ~~Division I-S-Part 1A~~ of this Article shall be made with respect to a shareholder's pro rata share of S Corporation income."

Section 92. G.S. 105-151 reads as rewritten:

"§ 105-151. Tax credits for income taxes paid to other states by individuals.

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this ~~Division-Part~~ for income taxes imposed by and paid to another state or country on income taxed under this ~~Division, Part,~~ subject to the following conditions:

- (1) The credit ~~shall be~~ is allowed only for taxes paid to another state or country on income derived from sources within that state or country that is taxed under its laws irrespective of the residence or domicile of the ~~recipient; provided, recipient, except~~ that whenever a taxpayer who is deemed to be a resident of this State under the provisions of this ~~Division-Part~~ is deemed also to be a resident of another state or country under the laws of that state or country, the Secretary ~~may, in his discretion, may~~ allow a credit against the taxes imposed by this ~~Division-Part~~ for taxes imposed by and paid to the other state or country on income taxed under this ~~Division-Part~~.
- (2) The fraction of the gross income, as calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed ~~shall be~~ is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.
- (3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary ~~at, or prior to, the time when the~~ credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded ~~shall be~~ is due and payable from the taxpayer and ~~shall be~~ is subject to the penalties and interest provided in Subchapter I of this Chapter."

Section 93. G.S 105-151.5 reads as rewritten:

"§ 105-151.5. Credit for conversion of industrial boiler to wood fuel.

A ~~person taxpayer~~ who modifies or replaces an oil or gas-fired boiler or kiln and the associated fuel and residue handling equipment used in the manufacturing process of a manufacturing business located in this State with one that is capable of burning wood ~~shall be is~~ allowed as a credit against the tax imposed by this ~~Division Part~~ an amount equal to fifteen percent (15%) of the installation and equipment cost of the ~~conversion~~; ~~provided, that in order to secure conversion paid during the taxable year.~~ In order to claim the credit allowed by this section, the taxpayer must own or control the business in which the boiler or kiln is used at the time of the ~~conversion and payment in part or in whole for the installation and equipment must be made by the taxpayer during the taxable year for which the credit is claimed.~~ The amount of credit allowed for any one taxable year may not exceed fifteen percent (15%) of the costs paid during the year. conversion. The credit allowed by this section may not exceed the amount of the tax imposed by this ~~Division Part~~ for the taxable year reduced by the sum of all credits allowable under this ~~Division~~, allowable, except for payments of tax made by or on behalf of the taxpayer. If a credit is granted under this section to a taxpayer engaged in the business of poultry production and that credit exceeds the tax imposed under this ~~Division, Part,~~ the excess may be carried forward ~~and applied to the tax imposed under this Division~~ for the succeeding five years."

Section 94. G.S. 105-151.6(a) reads as rewritten:

"(a) Credit Allowed. – Any person who constructs in North Carolina a distillery to make ethanol from agricultural or forestry products for qualified uses ~~shall be is~~ allowed a credit against the tax imposed by this ~~Division Part.~~ Subject to the limitation provided in subsection (d) of this section, the amount of the credit ~~shall be equal to is~~ twenty percent (20%) of the installation and construction costs of the ~~distillery~~, distillery paid during the year preceding the taxable year, and an additional ten percent (10%) of those costs if the distillery is to be powered by use of an alternative fuel source. No credit is allowed, however, for the costs of purchasing the land or site work, which includes rock, paving, and excavation. In order to secure the credit allowed by this section, the taxpayer must own or control the facility at the time of ~~construction~~, ~~and payment for the installation and construction must be made by the taxpayer during the year preceding the year for which the credit is claimed.~~ The amount of the credit allowed for any one taxable year shall be limited to twenty percent (20%) of the installation and construction costs paid during such year, or thirty percent (30%) if the ~~distillery is to be powered by an alternative fuel source.~~ construction. Invoices or receipts shall be furnished to substantiate a claim or a credit under this section if requested by the ~~Secretary of Revenue.~~ Secretary. The credit allowed by this section ~~shall may~~ not exceed the amount of the tax imposed by this ~~Division Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division~~, allowable, except for payments of tax made by or on behalf of the taxpayer."

Section 95. G.S. 105-151.7(a) reads as rewritten:

"(a) A person who constructs or installs a hydroelectric generator with a capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream located in this State ~~shall be is~~ allowed as a credit against the tax imposed by this ~~Division Part~~ an amount equal to ten percent (10%) of the installation and equipment costs of the

hydroelectric ~~generator.~~ generator paid during the taxable year. The credit allowed under this section may not exceed five thousand dollars (\$5,000) for any single installation. ~~This credit shall not be allowed.~~ No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the hydroelectric generator is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this ~~Division-Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except payments of tax made by or on behalf of the taxpayer."

Section 96. G.S. 105-151.8(a) reads as rewritten:

"(a) A person who constructs or installs solar energy equipment for the production of heat or electricity in the manufacturing or service processes of the person's business located in this State is allowed a credit against the tax imposed by this ~~Division-Part~~ equal to thirty-five percent (35%) of the installation and equipment costs of the solar energy ~~equipment.~~ equipment paid during the taxable year. The credit allowed under this section may not exceed twenty-five thousand dollars (\$25,000) for any single installation. ~~This credit shall not be allowed.~~ No credit is allowed, however, to the extent that any of the costs of the equipment were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the business at the time the solar energy equipment is installed. The credit allowed by this section may not exceed the amount of tax imposed by this ~~Division-Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except payments of tax made by or on behalf of the taxpayer. In no case ~~shall a tax credit be is~~ a credit allowed under both this section and G.S. 105-151.2."

Section 97. G.S. 105-151.9(a) reads as rewritten:

"(a) A person who constructs or installs a wind energy device for the production of electricity at a site located in this State ~~shall be is~~ allowed as a credit against the tax imposed by this ~~Division-Part~~ an amount equal to ten percent (10%) of the installation and equipment costs of the wind energy ~~device.~~ device paid during the taxable year. The credit allowed under this section may not exceed one thousand dollars (\$1,000) for any single installation. ~~This credit shall not be allowed.~~ No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the wind energy device is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this ~~Division-Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division,~~ allowable, except payments of tax made by or on behalf of the taxpayer."

Section 98. G.S. 105-151.10(a) reads as rewritten:

"(a) A ~~person-taxpayer~~ who constructs in North Carolina a facility for the production of methane gas from renewable biomass resources shall be allowed as a credit against the tax imposed by this ~~Division-Part~~ an amount equal to ten percent (10%) of the installation and equipment costs of ~~construction.~~ construction paid during the taxable year. The credit allowed under this section may not exceed two thousand five hundred dollars (\$2,500) for any single installation. ~~This credit shall not be allowed~~

No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. The credit allowed by this section may not exceed the amount of the tax imposed by this ~~Division Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division, allowable,~~ except payments of tax made by or on behalf of the taxpayer."

Section 99. G.S. 105-151.11(c) reads as rewritten:

"(c) Limitations. – No credit shall be allowed under this section for amounts deducted from gross income in calculating taxable income under the Code. The credit allowed by this section may not exceed the amount of tax imposed by this ~~Division Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division, allowable,~~ except for payments of tax made by or on behalf of the taxpayer. No credit shall be allowed under this section with respect to employment-related expenses paid by a nonresident of this State."

Section 100. G.S. 105-151.13(a) reads as rewritten:

"(a) A ~~person-taxpayer~~ who purchases conservation tillage equipment for use in a farming business, including tree farming, shall be allowed as a credit against the tax imposed by this ~~Division Part~~ an amount equal to twenty-five percent (25%) of the cost of the ~~equipment. equipment paid during the taxable year.~~ This credit may not exceed two thousand five hundred dollars (\$2,500) for any taxable year. The credit may be claimed only by the first purchaser of the equipment and may not be claimed by a person who purchases the equipment for resale or for use outside this State. This credit may not exceed the amount of tax imposed by this ~~Division Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division, allowable,~~ except tax payments made by or on behalf of the taxpayer. If the credit allowed by this section exceeds the tax imposed under this ~~Division, Part,~~ the excess may be carried forward ~~and applied to the tax imposed under this Division~~ for the next succeeding five years. The basis in any equipment for which a credit is allowed under this section shall be reduced by the amount of the credit allowable."

Section 101. G.S. 105-151.14(a) reads as rewritten:

"(a) A ~~person-taxpayer~~ who grows a crop and permits the gleaning of the crop during the taxable year shall be allowed as a credit against the tax imposed by this ~~Division Part~~ an amount equal to ten percent (10%) of the market price of the quantity of the gleaned crop. This credit may not exceed the amount of tax imposed by this ~~Division Part~~ for the taxable year reduced by the sum of all credits ~~allowable under this Division, allowable,~~ except tax payments made by or on behalf of the taxpayer. In order to claim the credit allowed under this section, the taxpayer must add the market price of the gleaned crop to taxable income as provided in G.S. 105-134.6(c). Any unused portion of the credit may be carried forward for the next succeeding five years."

Section 102. G.S. 105-151.18(d) reads as rewritten:

"(d) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this ~~Division Part~~ for

the taxable year reduced by the sum of all credits ~~allowed under this Division, allowable~~, except payments of tax made by or on behalf of the taxpayer."

Section 103. G.S. 105-151.21(a) reads as rewritten:

"(a) Credit. – An individual engaged in the business of farming is allowed a credit against the tax imposed by this ~~Division-Part~~ Part equal to the amount of property taxes the individual paid at par during the taxable year on farm machinery and on attachments and repair parts for farm machinery. In addition, an individual shareholder of an S Corporation engaged in the business of farming is allowed a credit against the tax imposed by this ~~Division-Part~~ Part equal to the shareholder's pro rata share of the amount of property taxes the S Corporation paid at par during the taxable year on farm machinery and on attachments and repair parts for farm machinery. The total credit allowed under this section may not exceed one thousand dollars (\$1,000) for the taxable year and may not exceed the amount of tax imposed by this ~~Division-Part~~ Part for the taxable year reduced by the sum of all credits ~~allowed under this Division, allowable~~, except payments of tax made by or on behalf of the taxpayer. To claim the credit, the taxpayer shall attach to the return a copy of the tax receipt for the property taxes for which credit is claimed. The receipt must indicate that the taxes have been paid and the amount and date of the payment."

Section 104. G.S. 105-152(e) reads as rewritten:

"(e) Joint Returns. – A husband and wife shall file a single income tax return jointly if (i) their federal taxable income is determined on a joint federal return and (ii) both spouses are residents of this State or both spouses have North Carolina taxable income. Except as otherwise provided in this ~~Division-Part~~ Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this ~~Division-Part~~ Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this ~~Division-Part~~ Part reduced by the sum of all credits ~~allowable under this Division-allowable~~ including tax payments made by or on behalf of the husband and wife. However, if a spouse has been relieved of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6013 of the Code, that spouse is not liable for the corresponding tax imposed by this ~~Division-Part~~ Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone."

Section 105. G.S. 105-160.3(a) reads as rewritten:

"(a) Except as otherwise provided in this section, the credits allowed to an individual against the tax imposed by ~~Division II-Part 2~~ Part 2 of this Article shall be allowed to the same extent to an estate or a trust against the tax imposed by this ~~Division-Part~~ Part. Any credit computed as a percentage of income received shall be apportioned between the estate or trust and the beneficiaries based on the distributions made during the taxable year. No credit may exceed the amount of the tax imposed by this ~~Division-Part~~ Part for the taxable year reduced by the sum of all credits ~~allowable under this Division, allowable~~, except for payments of tax made by or on behalf of the estate or trust."

Section 106. G.S. 105-164.3(22) reads as rewritten:

"(22) "Use tax" means ~~and includes the tax imposed by Part 3 in Division II~~ 2 of this Article."

Section 107. G.S. 105-164.13(5) reads as rewritten:

"(5) Manufactured products produced and sold by manufacturers or producers to other manufacturers, producers, or registered ~~wholesale or retail~~ retailers or wholesale merchants, for the purpose of resale except as modified by ~~Division I, G.S. 105-164.3, subdivision (23).~~ Provided, however, this exemption shall G.S. 105-164.3(23). This exemption does not extend to or include retail sales to users or consumers not for resale."

Section 108. G.S. 105-164.26 reads as rewritten:

"§ 105-164.26. Presumption that sales are taxable.

For the purpose of the proper administration of ~~this division of this Article~~ and to prevent evasion of the retail sales tax, it shall be presumed that all gross receipts of wholesale merchants and retailers are subject to the retail sales tax until the contrary is established by proper records as required ~~herein~~ in this Article. It shall be prima facie presumed that tangible personal property sold by any person for delivery in this State, however made, and by carrier or otherwise, is sold for storage, ~~use~~ use, or other consumption in this State, and a like presumption shall apply to tangible personal property delivered ~~without outside~~ this State and brought to this State by the ~~purchaser thereof.~~ purchaser. "

Section 109. G.S. 105-228.1 reads as rewritten:

"§ 105-228.1. Defining taxes levied and assessed in this Article.

The purpose of this Article is to levy a fair and equal tax under authority of ~~Article V, Sec. 3 of the Constitution of North Carolina~~ Section 2(2) of Article V of the North Carolina Constitution and to provide a practical means for ascertaining and collecting it. The taxes levied and assessed in this ~~schedule shall be upon the gross earnings~~ Article are on gross earnings, as defined in the Article, and ~~shall be~~ are in lieu of ad valorem taxes upon the properties of ~~individuals, firms, or corporations so taxed herein.~~ persons taxed in this Article."

Section 110. G.S. 105-266(c) reads as rewritten:

"(c) Statute of Limitations. – The period in which a refund must be demanded or discovered under this section is determined as follows:

- (1) General Rule. – No overpayment shall be refunded, whether upon discovery or receipt of written demand, if the discovery is not made or the demand is not received within three years after the date set by the statute for the filing of the return or within six months after the payment of the tax alleged to be an overpayment, whichever is later.
- (2) Worthless Debts or Securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in ~~Division II or III Part 2 or 3 of Article 4 of this Chapter~~ to the extent the overpayment is attributable to either of the following:

- a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.
 - b. The effect of the deductibility of a debt or loss described in subpart a. of this subdivision on the application of a carryover to the taxpayer.
- (3) Capital Loss and Net Operating Loss Carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in ~~Division II or III~~ Part 2 or 3 of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code.
- (4) Federal Determination. – When a taxpayer files with the Secretary a return that reflects a federal determination and the return is filed within the required time, the period in which a refund must be demanded or discovered is one year after the return reflecting the federal determination is filed or three years after the original return was filed or due to be filed, whichever is later."

Section 111. G.S. 105-309(d) reads as rewritten:

"(d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under ~~Division IV of Article 4 of this Chapter~~. G.S. 105-151.21.

- (1) If the assessor considers it necessary to obtain a complete listing of personal property, ~~he~~ the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.
- (2) At the request of the assessor, the taxpayer shall furnish any information ~~he may have~~ the taxpayer has with respect to the true value of the personal property ~~he~~ the taxpayer is required to list."

Section 112. G.S. 105-366(b)(5) reads as rewritten:

- "(5) The stock of goods or fixtures of a wholesale ~~or retail merchant (as defined in Schedule E of the Revenue Act)~~ merchant or retailer, as defined in G.S. 105-164.3, in the hands of a purchaser or transferee thereof, or any other personal property of the purchaser or transferee of ~~such~~ the property, if the taxes on the goods or fixtures remain unpaid 30 days after the date of the sale or transfer, ~~but in such a case the transfer.~~ In the case of other personal property of the purchaser or transferee, the levy or attachment must be made within six months of the sale or transfer."

Section 113. G.S. 105-366(d) reads as rewritten:

"(d) Remedies against Sellers and Purchasers of Stocks of Goods or Fixtures of Wholesale ~~or Retail Merchants~~. Merchants or Retailers. –

- (1) ~~Any wholesale or retail merchant (as defined in Schedule E of the Revenue Act)~~ merchant or retailer, as defined in G.S. 105-164.3, who sells or transfers the major part of ~~his-its~~ stock of goods, materials, supplies, or fixtures, other than in the ordinary course of ~~business or who goes out of business, shall:~~ business, or who goes out of business, must take the following actions:
- a. At least 48 hours prior to the date of the pending sale, transfer, or termination of business, give notice ~~thereof~~ to the assessors and tax collectors of the taxing units in which ~~his~~ the business is ~~located; and located.~~
 - b. Within 30 days of the sale, transfer, or termination of business, pay all taxes due or to become due on the transferred property on the first day of September of the current calendar year.
- (2) Any person to whom the major part of the stock of goods, materials, supplies, or fixtures of a ~~wholesale or retail merchant (as defined in Schedule E of the Revenue Act)~~ merchant or retailer is sold or transferred, other than in the ordinary course of business, or who becomes the successor in business of a ~~wholesale or retail merchant~~ merchant or retailer shall withhold from the purchase money paid to the merchant an amount sufficient to pay the taxes due or to become due on the transferred property on the first day of September of the current calendar year until the former owner or seller produces either a receipt from the tax collector showing that the taxes have been paid or a certificate that no taxes are due. If the purchaser or successor in business fails to withhold a sufficient amount of the purchase money to pay the taxes as required by this subsection ~~(d)~~ and the taxes remain unpaid after the 30-day period allowed, ~~he shall be the purchaser or successor is~~ personally liable for the amount of the taxes unpaid, and his unpaid. This liability may be enforced by means of a civil action brought in the name of the taxing unit against ~~him~~ the purchaser or successor in an appropriate trial division of the General Court of Justice in the county in which the taxing unit is located.
- (3) Whenever any ~~wholesale or retail merchant (as defined in Schedule E of the Revenue Act)~~ merchant or retailer sells or transfers the major part of ~~his-its~~ stock of goods, materials, supplies, or fixtures, other than in the ordinary course of business, or goes out of ~~business,~~ business and the taxes due or to become due on the transferred property on the first day of September of the current calendar year are unpaid, the tax collector, to enforce collection of the unpaid taxes, ~~may:~~ may do any of the following:
- a. Levy on or attach any personal property of the ~~seller;~~ or seller.
 - b. If the taxes remain unpaid 30 days after the date of the transfer or termination of business, levy on or attach any of the property transferred in the hands of the transferee or successor in

business, or any other personal property of the transferee or successor in business, but in either case the levy or attachment must be made within six months of the transfer or termination of business.

- (4) In using the remedies provided in this ~~subsection (d)~~, subsection, the amount of taxes not yet determined shall be computed in accordance with G.S. 105-359, and any applicable discount shall be allowed."

PART III. EFFECTIVE DATE.

Section 114. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of August, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 8:58 a.m. this 14th day of August, 1998.